

# House File 2619 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 687)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to deferred judgment criminal records.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5972HV 82  
4 jm/nh/5

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1 1 Section 1. Section 907.1, Code 2007, is amended by adding  
1 2 the following new subsection:  
1 3 NEW SUBSECTION. 2A. "Expunged" means the court's criminal  
1 4 record with reference to a deferred judgment has been  
1 5 segregated in an area or database which is secured from public  
1 6 access.

1 7 Sec. 2. Section 907.4, Code 2007, is amended to read as  
1 8 follows:

1 9 907.4 DEFERRED JUDGMENT DOCKET.

1 10 1. A deferment of judgment under section 907.3 shall be  
1 11 entered promptly by the clerk of the district court, or the  
1 12 clerk's designee, into the deferred judgment database of the  
1 13 state, which shall serve as the deferred judgment docket. The  
1 14 deferred judgment docket shall be maintained by the state

1 15 court administrator and shall not be destroyed. The docket  
1 16 shall contain a permanent record of the deferred judgment  
1 17 including the name and date of birth of the defendant, the  
1 18 district court docket number, the nature of the offense, and  
1 19 the date of the deferred judgment. Before granting deferred  
1 20 judgment in any case, the court shall search the deferred  
1 21 judgment docket and shall consider any prior record of a  
1 22 deferred judgment against the defendant.

1 23 2. The permanent record provided for in ~~this section~~  
1 24 subsection 1 is a confidential record exempted from public  
1 25 access under section 22.7 and shall be available only to  
1 26 justices of the supreme court, judges of the court of appeals,  
1 27 district judges, district associate judges, judicial  
1 28 magistrates, clerks of the district court, judicial district  
1 29 departments of correctional services, county attorneys, and  
1 30 the department of corrections requesting information pursuant  
1 31 to this section, or the designee of a justice, judge,  
1 32 magistrate, clerk, judicial district department of  
1 33 correctional services, or county attorney, or department.

1 34 Sec. 3. Section 907.9, subsection 4, Code 2007, is amended  
1 35 to read as follows:

2 1 4. At the expiration of the period of probation and if the  
2 2 fees imposed under sections 815.9 and 905.14 have been paid or  
2 3 on condition that unpaid supervision fees be paid, the court  
2 4 shall order the discharge of the person from probation, and  
2 5 the court shall forward to the governor a recommendation for  
2 6 or against restoration of citizenship rights to that person.  
2 7 A person who has been discharged from probation shall no  
2 8 longer be held to answer for the person's offense.

2 9 4A. Upon discharge from probation, if judgment has been  
2 10 deferred under section 907.3, the court's criminal record with  
2 11 reference to the deferred judgment shall be expunged. ~~The~~  
~~2 12 record maintained by the state court administrator as required~~  
~~2 13 by section 907.4 shall not be expunged.~~ The expunged record  
2 14 is a confidential record exempt from public access under  
2 15 section 22.7 but shall be made available by the clerk of the  
2 16 district court, upon request and without court order, to an  
2 17 agency or person granted access to the deferred docket under  
2 18 section 907.4. The court's record shall not be expunged in  
2 19 any other circumstances unless otherwise authorized by law.

EXPLANATION

2 20

2 21 This bill relates to deferred judgment criminal records.

2 22 The bill defines "expunged" to mean the court's criminal  
2 23 record with reference to a deferred judgment has been  
2 24 segregated into a separate area or database which is secured  
2 25 from public access. The expunged record is a confidential  
2 26 record exempt from public access under Code section 22.7, but  
2 27 shall be made available by the clerk of the district court,  
2 28 upon request and without court order, to the agencies or  
2 29 persons granted access to the deferred judgment docket under  
2 30 Code section 907.4.

2 31 Currently, the court's criminal record relating to a  
2 32 deferred judgment is expunged, but a record of the deferred  
2 33 judgment is made permanent in the deferred judgment docket.  
2 34 The permanent record in the deferred judgment docket under  
2 35 current law includes the name and date of birth of the  
3 1 defendant, the district court docket number, the nature of the  
3 2 offense, and the date of the deferred judgment.

3 3 The bill also strikes a provision in Code section 907.9  
3 4 requiring the state court administrator to maintain deferred  
3 5 judgment records and moves the provision to Code section  
3 6 907.4.

3 7 The bill also provides that the court's record shall not be  
3 8 expunged unless otherwise authorized by law. Current law  
3 9 authorizes criminal records to be expunged under Code sections  
3 10 123.46, 321.211A, and 321.385A.

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